

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH, ALLAHABAD

(This the 16th Day of August, 2021)

Hon'ble Mrs. Justice Vijay Lakshmi, Member (J)
Hon'ble Mr. Tarun Shridhar, Member (A)

Original Application No.330/00595/2021

Ranvir Singh aged about 53 years, S/o Karan Singh Varma, m Resident of OMQ-727/1, North Camp, CAC (AF), Bamrauli, Allahabad (U.P.), Pin Code No.211012.

..... **Applicant**

By Advocate: **Shri Anil Kumar Singh**

Versus

1. Union of India, through Secretary, Ministry of Defence, Govt. of India, South Block, New Delhi – 110011 & Ors.

..... **Respondents**

By Advocate: **Shri Dharam Pal Singh**

O R D E R

Delivered by Hon'ble Mrs. Justice Vijay Lakshmi, Member (J)

We have joined this Division Bench online through Video Conferencing.

2. ShriAnil Kumar Singh, learned counsel for the applicant and Shri Dharam Pal Singh, learned counsel for the respondents, both are present in Court. Heard and perused the record.

3. The applicant, herein, is aggrieved by his transfer order dated 22.06.2021, whereby, he has been transferred from CE (AF) Allahabad to CE Leh Zone as Dir (Arch).

4. Learned counsel for the applicant has submitted that the applicant is about 52 years of age and he has rendered continuous regular service in the respondents' department for more than 22 years on group 'A' post as Chief Engineer. As per the terms of his appointment, he is governed by Civilians in Defence Services (Field Service Liability) Rules, 1957, framed by the Department, under the provision of Article 309 of the Constitution of India, published by Gazette notification dated 9 March, 1957, under the heading "Statutory Rules and Orders issued by Ministry of Defence"

5. It is next submitted that S.R.O. 92 dated 26th Feb, 1957, framed thereunder, as amended vide SRO no.25 dated 6th January 1969, is a statutory rule. Rule 3 to 5 of it deals with medical standards of a civilian government servant. The proviso to rule 5 of it clearly stipulates that this sub rule shall not apply to any civilian government servant, serving in defence, who has completed **20 years'** continuous service or who has attained the age of 45 years.

6. It is submitted that the applicant being 52 years of age, these sub rules are not applicable on him. However, the applicant has been transferred to hard tenure station Leh at Laddakh against the statutory provisions and ignoring his poor medical condition. It is submitted that the applicant is suffering from Hematuria (blood passage in urine)

and on investigation was detected with three Tumour in his Urinary Bladder. Tumours were got removed at SGPGI Lucknow. Biopsy was carried out subsequently after operation & he was diagnosed as "Lamina Invasive Low Grade Papillary Urothelial Carcinoma". In support of his contention, the applicant has filed all the medical papers of SGPGI, Lucknow, which have been collectively annexed as annexure A-5 to the OA. Moreover, the applicant is a patient of high blood pressure and in the high altitude at Leh, due to low oxygen and extremely cold temperature, the applicant will not be able to survive from this serious illness. Therefore, it has been prayed that the impugned transfer order, which has been issued in violation of the statutory rules and ignoring the medical condition of the applicant, be quashed and its operation be stayed during the pendency of this OA.

7. Our attention has also been drawn to the judgment and order dated 30.5.14, passed by the principal bench of Central Administrative Tribunal in OA no.57 of 2014, where, under the similar circumstances, the transfer order has been quashed.

8. Learned counsel for the respondents has prayed for a time of four weeks to file a short counter affidavit.

9. On this, learned counsel for the applicant submitted that time may be granted to the respondents, however, in view of the serious illness of the applicant and statutory rules, the transfer order be stayed in the meantime.

10. Considering the submissions made by learned counsel for the parties, a time of 4 weeks is granted to ld. Counsel for the respondents to file a short counter affidavit, however, keeping in view the serious medical condition of the applicant and the extremely hard atmospheric conditions at Leh, where the applicant has been transferred, it is directed that the impugned transfer order dated 22.06.2021 shall be kept in abeyance till the next date.

11. List on 07.10.2021 before court.

Hon'ble Shri Tarun Shridhar, Member (Administrative) has consented to this order during virtual hearing.

(Tarun Shridhar)
Member-A

(Justice Vijay Lakshmi)
Member-J

Sushil